

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1814 of 1981

Date of decision: 14-8-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

IR PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1814 of 1981
MR VM TRIVEDI for Petitioner

Mr. Nigam Shukla for Respondent No. 1

SERVED for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/08/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

Challenge is made by the petitioners to the order annexure-A by which the petitioners were ordered to be reverted from the post of Maintenance Surveyors to the post of Surveyors. It is not in dispute that all the petitioners belong to the reserve category of Scheduled Caste / Scheduled Tribe. Learned counsel for the petitioners contended that the petitioners were given promotion on the higher post in the cadre of Maintenance Surveyors and even if any occasion arise for their reversion for any reason, then the quota of reservation in the promotion should be strictly adhered to. In such cases the principle of last come first go will not apply because the general candidates were promoted against the general quota whereas Scheduled Castes / Scheduled Tribe candidates were promoted against the reserved quota. He further contended that in case reversion is effected in such cases on the aforesaid principles, it will result in reduction of the number of promotees in the reserved quota. If such a course is allowed to go on, learned counsel for the petitioners contended that there is no justification for reverting the petitioners after they have worked on the higher post for sufficiently long period.

2. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties. While issuing rule in the matter, this Court protected the petitioners by granting interim relief in terms of para 15(c) and the interim relief continues till this date. Reversion order of the petitioners was not given effect to. Though this is a matter of the year 1981 none

of the parties is in a position to inform the Court about the latest position of the petitioners and whether any grievance survives. In old matters, particularly in service matters, by passage of time changed occur in the position of the petitioners and ultimately the grievance made in the writ petitions may not survive or, if survives, may be limited. In such cases if the counsel for the petitioners and the respondents bring on record the latest position then it may save the Court's time from deciding matters which, by passage of time, would have become infructuous or the grievance made in the petition would not be surviving. But no body cares for these old matters and as such in many cases, though there may not be any grievance of the petitioner surviving or the grievance may have been substantially redressed, the court has to devote sufficient time to decide the matter on merits. It is expected of the counsel appearing for the parties in such matters to keep themselves informed up to date relating to the facts in the matters.

3. The contentions raised by the learned counsel for the petitioners need not be decided on merits. The reason is very obvious. For all these years the petitioners were continued on the higher post and they might have been promoted to next higher posts, and there may be possibility by lapse of time that the grievance may not be surviving in the special civil application. The substantial question which has been raised by the counsel for the petitioner regarding maintaining the quota in case reversion is to be made effective may be decided by the respondents in case reversion of the petitioners is considered necessary. Interest of justice will be met if the special civil application is disposed of with the following direction.

4. The petitioners may make representation to the respondents concerned if any of their grievance raised in this petition survives today. In case such representation is made by the petitioners within a period of two months from today, the concerned respondent shall decide the same within a period of next three months. In case the petitioners' grievance is granted by the concerned respondent, the petitioners will be entitled to all the consequential benefits. In case the grievance of the petitioners is not granted it is expected of the concerned respondents to pass a reasoned order and copy thereof shall be sent to the petitioners individually by registered post. Rule made absolute in the aforesaid terms. No order as to costs.

.....

CSM